

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AMERICAN-ARAB ANTI-DISCRIMINATION
COMMITTEE, a non-profit organization, and
IMAD CHAMMOUT,

Plaintiffs,

vs.

Case No.
Hon.

CITY OF DEARBORN, a Michigan municipal
corporation,

Defendant.

_____ /

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, American-Arab Anti-Discrimination Committee (“ADC”), and Imad Chammout,
by their attorneys, for their complaint against the city of Dearborn state:

Introduction

1. This is a First Amendment challenge to a Dearborn ordinance that requires any group having a common goal proceeding along any public right-of-way in Dearborn to obtain a permit. This ordinance is unconstitutional because it: 1) is not narrowly tailored to serve a significant government interest as it requires that application be made at least 30 days in advance to engage in free speech activity and applies no matter how small the group; 2) creates a permit scheme which does not leave open ample alternatives for communication; 3) criminalizes speech absent *mens rea*; 4) lacks narrow, objective and definite standards to guide official discretion; and 5) discriminates based on the content of the speech and the identity of the speaker.

2. Dearborn has prosecuted plaintiff Imad Chammout for violating this ordinance and it stands ready to prosecute anyone who engages in organized free speech activity in Dearborn,

including plaintiff ADC, in the future who fails to first comply with this unconstitutional ordinance.

Jurisdiction

3. Plaintiffs bring this suit pursuant to the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §§1983 and 1988. Plaintiffs seek injunctive relief thereunder and declaratory and other relief under 28 U.S.C. §§2201 and 2202.

4. This Court has jurisdiction pursuant to 28 U.S.C. §§1331 (federal question), 1343 (original jurisdiction over civil rights claims) and 2201 (declaratory relief).

5. Venue is proper under 28 U.S.C. §1391(b)(1) and (2), this being a judicial district where the defendant “resides” and where the events giving rise to this action occurred and will occur.

Parties

6. The ADC is a national non-profit organization whose purpose is to protect civil liberties and promote civic participation through legal representation and cooperation with government. As part of promoting civic participation, it organizes rallies and marches to respond to current events or other issues. Its Midwest regional office is in Dearborn, Michigan.

7. Imad Chammout is a United States citizen and an activist who resides in the city of Dearborn.

8. Dearborn is a municipal corporation organized and existing under the laws of Michigan.

Ordinance

9. Dearborn Ordinance No. 89-450 (the “special events” ordinance) was adopted on 2 May 1989. It is codified in part at Sections 17-26 through 17-32 of the city code. In relevant part

it provides:

ORDINANCE NO. 89-450

AN ORDINANCE TO REGULATE
SPECIAL EVENTS

THE CITY OF DEARBORN ORDAINS:

SECTION 1. PERMIT REQUIRED. In order to properly provide for traffic and crowd control, street and property maintenance and the protection of public health, safety and welfare, it shall be unlawful to participate in any special event upon any street, park or public area of the City of Dearborn unless such activity is granted approval by resolution by the City Council.

SECTION 2. DEFINITIONS. For the purpose of this ordinance, the term “special event” shall be deemed to include any walkathon, bikeathon, or jogging group, or other organized group having a common purpose or goal, proceeding along a public street or other public right-of-way in the City of Dearborn. This ordinance shall not apply to the following:

- a. Funeral processions;
- b. Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities.
- c. A governmental agency acting within the scope of its functions.

* * *

SECTION 5. APPLICATION PERIOD. No permit shall be issued for a special event unless application is made not less than 30 days before the date the special event is sought to be held.

SECTION 6. PERMIT APPROVAL. If the City Council finds that the special event is to be held for a lawful purpose and will not in any manner act so as to breach the peace or unnecessarily interfere with the public use of the streets, sidewalks, parks and public areas, he [*sic*] shall grant the permit. Denials of permits shall be in writing, setting forth the reasons for such denial. Notice of acceptance or denial shall be given within 10 days receipt of the application.

* * *

SECTION 7. PENALTY. Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be subject to a fine not exceeding the sum of \$500 or imprisonment for a period not exceeding ninety days or both such fine and imprisonment in the discretion of the court.

* * *

(The ordinance is attached.)

Facts

10. On the afternoon of 14 April 2002, a march and rally was held in Dearborn to protest events in the Middle East, including the Israeli government's reported movement into the Jenin refugee camp which had occurred a few days earlier.

11. According to advertisements on the Arabic language satellite channel Al-Manar, this march and rally was being coordinated with similar protests in England, France, Germany and other countries.

12. Chammout did not organize this march and rally.

13. Chammout has organized several marches in Dearborn and in each case obtained a permit.

14. The identity of the march and rally organizers remains unknown.

15. By about 4 p.m. that day, approximately 200 people had gathered at the corner of Warren and Wyoming in Dearborn for the beginning of the march.

16. At the request of certain march participants, Chammout did play a role in guiding the march at its beginning.

17. The marchers marched from Warren and Wyoming to Dearborn city hall where a rally was held.

18. On information and belief, the unidentified individuals who did organize this march and rally did not obtain a permit from the city.

19. Chammout had no knowledge that this march and rally was being held without a permit.

20. On or about 31 May 2002, Chammout received a notice from Dearborn to appear for an arraignment with the offense listed as “protest.”

21. On 3 June 2002, Chammout, without counsel, pled guilty to protesting without a permit. Chammout subsequently retained counsel and moved to vacate his guilty plea.

22. Chammout later agreed to drop his motion in exchange for Dearborn’s agreement not to seek restitution. (The city had been seeking to require that Chammout and the others charged pay \$3700, the amount the city alleged it was required to expend to police the march and rally.)

23. Dearborn has prosecuted individuals other than Chammout under the special events ordinance. At least two other individuals were prosecuted as a result of the above described march and rally.

24. Dearborn has informed Chammout, through his attorney Majed Moughni, that it will continue to enforce the 30 day provision of the special events ordinance.

25. Chammout intends to organize marches in the future in direct response to national and/or international events.

26. In order for any such march to be effective in protesting these events and in order to influence government policy in a timely manner, Chammout does not want to wait 30 days to march.

27. For example, if the United States invades Iraq, Chammout would like to promptly exercise his First Amendment rights and organize a protest without waiting 30 days.

28. Similarly, the ADC has organized several marches in the recent past in Dearborn and would like to organize marches in the future in Dearborn in direct response to national and/or international events in a timely manner without waiting 30 days between the event and the march.

29. For example, if the United States invades Iraq, the ADC would like to promptly exercise its First Amendment rights and organize a protest without waiting 30 days.

30. Plaintiffs' ability to organize events on less than 30 days notice and the public's participation in such events has been and is being chilled by the special events ordinance.

31. For example, in the event the United States invades Iraq and two or more individuals decide to assert their First Amendment rights to free speech and assembly by conducting a march, rally or other event that proceeds along a public right of way in Dearborn, Dearborn by its special events ordinance will require those individuals to wait at least 30 days before asserting their First Amendment rights.

Claim for Relief

32. The special events ordinance violates the First and Fourteenth Amendments of the United States Constitution on its face and as applied as the 30 days notice requirement is not narrowly tailored to serve a significant government interest.

33. The special events ordinance violates the First and Fourteenth Amendments on its face as it is not narrowly tailored to serve a significant government interest because it restricts protected speech by small groups.

34. The special events ordinance violates the First and Fourteenth Amendments on its face and as applied because it does not provide ample alternatives for communication.

35. The special events ordinance violates the First and Fourteenth Amendments on its face and as applied as it criminalizes speech absent any *mens rea*.

36. The special events ordinance violates the First and Fourteenth Amendments on its face because it lacks narrow, objective and definite standards to guide official discretion.

37. The special events ordinance violates the First and Fourteenth Amendments on its face and as applied because it discriminates based on the content of speech and the identity of its speaker.

38. At all times Dearborn has acted under the color of state law.

39. Plaintiffs and all other citizens and groups living and acting in Dearborn are irreparably harmed by the existence and enforcement of the special events ordinance.

40. Injunctive relief would be in the public interest.

41. Injunctive relief would not cause substantial harm to others.

Relief Requested

WHEREFORE, plaintiffs request that this Court:

- a. Declare the special events ordinance unconstitutional on the grounds set forth above;
 - b. enter a preliminary and permanent injunction against enforcement and threat of enforcement of this ordinance on the grounds set forth above;
 - c. award plaintiffs costs and attorneys fees under 28 U.S.C. §1988;
- and
- d. grant other appropriate relief.

Respectfully submitted,

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Attorneys for Plaintiffs

Dated: 20 January 2003

Declaration of Imad Chammout

I declare that I am a plaintiff in this action, that I have read the complaint and that the factual statements contained in paragraphs 2, 7, 10-27 and 30 therein are within my personal knowledge and are true and correct.

Imad Chammout

Subscribed and sworn to before
me this ___ day of _____, 200 .

Notary Public
_____ County, Michigan
My Commission Expires: _____

Declaration of Imad Hamad

I declare that I am the Regional Director of the Midwest Regional Office of ADC,
a plaintiff in this action, that I have read the complaint and that the factual statements contained in
paragraphs 6 and 28-30 therein are within my personal knowledge and are true and correct.

Imad Hamad

Subscribed and sworn to before
me this ___ day of _____, 200 .

Notary Public
_____ County, Michigan
My Commission Expires: _____